

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE WORLD TRADE CENTER LOWER  
MANHATTAN DISASTER SITE  
LITIGATION

21 MC 102 (AKH)

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THIS DOCUMENT APPLIES TO ALL  
LOWER MANHATTAN DISASTER  
SITE LITIGATION IN WHICH  
MARTUSCELLO CLEAN AIR INC. IS  
A DEFENDANT

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**DEFENDANT JOSEPH MARTUSCELLO'S ANSWER  
TO THE MASTER COMPLAINT**

Defendant, Joseph Martuscello (hereinafter referred to as "Martuscello"), by and through its counsel, FRIEDMAN, HARFENIST, LANGER & KRAUT, hereby answers the Master Complaint in the above-captioned action as follows:

1. Denies the allegations contained in paragraph 1 of the Master Complaint as it relates to defendant Martuscello and denies knowledge and information sufficient to form a belief as the allegations pertaining to the remaining defendants.

2. Admits the allegations contained in paragraph 2 of the Master Complaint to the extent that the World Trade Center collapsed based on

terrorist attacks on September 11, 2001, but denies the remaining allegations as they relate to defendant Martuscello. Defendant Martuscello further denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

3. Denies the allegations contained in paragraph 3 of the Master Complaint as it relates to defendant Martuscello and denies knowledge and information sufficient to form a belief as the allegations pertaining to the remaining defendants.

4. Defendant Martuscello refers all questions of law contained in paragraph 4 of the Master Complaint to the Court.

5. Denies the allegations contained in paragraph 5 of the Master Complaint as it relates to defendant Martuscello, denies knowledge and information sufficient to form a belief as the allegations pertaining to the remaining defendants and begs leave to refer all questions of law to the Court.

6. Denies the allegations contained in paragraph 6 of the Master Complaint as it relates to defendant Martuscello, denies knowledge and information sufficient to form a belief as the allegations pertaining to the remaining defendants and begs leave to refer all questions of law to the Court.

7. Denies the allegations contained in paragraph 7 of the Master Complaint as it relates to defendant Martuscello, denies knowledge and information sufficient to form a belief as the allegations pertaining to the remaining defendants and begs leave to refer all questions of law to the Court.

8. Refers all questions of law contained in paragraph 8 of the Master Complaint to the Court.

9. Refers all questions of law contained in paragraph 9 of the Master Complaint to the Court.

10. Refers all questions of law contained in paragraph 10 of the Master Complaint to the Court.

11. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 11 of the Master Complaint.

12. Denies the allegations contained in paragraph 12 of the Master Complaint and denies knowledge and information sufficient to form a belief as to the allegations contained in paragraphs 12a through 12d of the Master Complaint.

13. Denies the allegations contained in paragraph 13 of the Master Complaint as to defendant Martuscello, except to admit that Martuscello was an owner of 108 Greenwich Street, New York, New York; and denies

knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

14. Denies the allegations contained in paragraph 14 of the Master Complaint as to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

15. Denies the allegations contained in paragraph 15 of the Master Complaint as it relates to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

16. Denies the allegations contained in paragraph 16 of the Master Complaint as to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

17. Denies the allegations contained in paragraph 17 of the Master Complaint as to defendant Martuscello was a foreign corporation doing business in the State of New York and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

18. Denies the allegations contained in paragraph 18 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

19. Denies the allegations contained in paragraph 19 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

20. Denies the allegations contained in paragraph 20 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

21. Denies the allegations contained in paragraph 21 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

22. Denies the allegations contained in paragraph 22 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

23. Denies the allegations contained in paragraph 23 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

24. Denies the allegations contained in paragraph 24 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

25. Denies the allegations contained in paragraph 25 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

26. Denies the allegations contained in paragraph 26 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

27. Denies the allegations contained in paragraph 27 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

28. Denies the allegations contained in paragraph 28 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

29. Denies the allegations contained in paragraph 29 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

30. Denies the allegations contained in paragraph 30 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

31. Denies the allegations contained in paragraph 31 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

32. Admits the allegations contained in paragraph 32 of the Master Complaint to the extent that defendant Martuscello was conducting business in the State of New York but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

33. Admits the allegations contained in paragraph 33 of the Master Complaint to the extent that defendant Martuscello was conducting business in the State of New York but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

34. Denies the allegations contained in paragraph 34 of the Master Complaint as it pertains to defendant Martuscello, except to admit Martuscello owned 108 Greenwich Street, New York, New York and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

35. Admits the allegations contained in paragraph 35 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

36. Denies the allegations contained in paragraph 36 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

37. Denies the allegations contained in paragraph 37 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and



information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

38. Admits the allegations contained in paragraph 38 of the Master Complaint as it pertains to defendant Martuscello as it pertains to 108 Greenwich Street, New York, New York, but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

39. Denies the allegations contained in paragraph 39 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

40. Denies the allegations contained in paragraph 40 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

41. Denies the allegations contained in paragraph 41 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

42. Denies the allegations contained in paragraph 42 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

43. Denies the allegations contained in paragraph 43 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

44. Denies the allegations contained in paragraph 44 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

45. Denies the allegations contained in paragraph 45 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

46. Denies the allegations contained in paragraph 46 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

47. Denies the allegations contained in paragraph 47 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

48. Denies the allegations contained in paragraph 48 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

49. Denies the allegations contained in paragraph 49 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

50. Denies the allegations contained in paragraph 50 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

51. Denies the allegations contained in paragraph 51 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

52. Denies the allegations contained in paragraph 52 of the Master Complaint as it pertains to defendant Martuscello but denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

53. Denies the allegations contained in paragraph 53 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

54. Denies the allegations contained in paragraph 54 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

55. Denies the allegations contained in paragraph 55 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

56. Denies the allegations contained in paragraph 56 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

57. Denies the allegations contained in paragraph 57 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

58. Denies the allegations contained in paragraph 58 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

59. Denies the allegations contained in paragraph 59 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

60. Denies the allegations contained in paragraph 60 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

61. Denies the allegations contained in paragraph 61 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

62. Denies the allegations contained in paragraph 62 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

63. Denies the allegations contained in paragraph 63 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

64. Denies the allegations contained in paragraph 64 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

65. Denies the allegations contained in paragraph 65 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

66. Denies the allegations contained in paragraph 66 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

67. Denies the allegations contained in paragraph 67 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

68. Denies the allegations contained in paragraph 68 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

69. Denies the allegations contained in paragraph 69 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

70. Denies the allegations contained in paragraph 70 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

71. Denies the allegations contained in paragraph 71 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

72. Denies the allegations contained in paragraph 72 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.



73. Denies the knowledge and information sufficient to form a belief as to the allegations contained in paragraph 73 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

74. Denies the allegations contained in paragraph 74 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

75. Denies the allegations contained in paragraph 75 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

76. Denies the allegations contained in paragraph 76 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

77. Denies the allegations contained in paragraph 77 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

78. Denies the allegations contained in paragraph 78 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

79. Denies the allegations contained in paragraph 79 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

80. Denies the allegations contained in paragraph 80 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

81. Denies the allegations contained in paragraph 81 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

82. Denies the allegations contained in paragraph 82 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

83. Denies the allegations contained in paragraph 83 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

84. Denies the allegations contained in paragraph 84 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

85. Denies the allegations contained in paragraph 85 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

86. Denies the allegations contained in paragraph 86 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

87. Denies the allegations contained in paragraph 87 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

88. Denies the allegations contained in paragraph 88 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

89. Denies the allegations contained in paragraph 89 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

90. Denies the allegations contained in paragraph 90 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

91. Denies the allegations contained in paragraph 91 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

92. Denies the allegations contained in paragraph 92 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

93. Denies the allegations contained in paragraph 93 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

94. Denies the allegations contained in paragraph 94 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

95. Denies the allegations contained in paragraph 95 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

96. Denies the allegations contained in paragraph 96 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

97. Denies the allegations contained in paragraph 97 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

98. Denies the allegations contained in paragraph 98 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

99. Denies the allegations contained in paragraph 99 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

100. Denies the allegations contained in paragraph 100 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

101. Denies the allegations contained in paragraph 101 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

102. Denies the allegations contained in paragraph 102 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

103. Denies the allegations contained in paragraph 103 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

104. Denies the allegations contained in paragraph 104 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof



and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

105. Denies the allegations contained in paragraph 105 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

106. Denies the allegations contained in paragraph 106 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

107. Denies the allegations contained in paragraph 107 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

108. Denies the allegations contained in paragraph 108 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

109. Denies the allegations contained in paragraph 109 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

110. Denies the allegations contained in paragraph 110 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

111. Denies the allegations contained in paragraph 111 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

112. Denies the allegations contained in paragraph 112 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

113. Denies the allegations contained in paragraph 113 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

114. Denies the allegations contained in paragraph 114 of the Master Complaint.

115. Denies the allegations contained in paragraph 115 of the Master Complaint and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof.

116. Denies the allegations contained in paragraph 116 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

117. Denies the allegations contained in paragraph 117 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof

and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

118. Denies the allegations contained in paragraph 118 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

119. Denies the allegations contained in paragraph 119 of the Master Complaint as it pertains to defendant Martuscello and begs leave to refer all questions of fact to the finder thereof and questions of law to the trier thereof and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

120. Denies the allegations contained in paragraph 120 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

121. Denies the allegations contained in paragraph 121 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

122. Denies the allegations contained in paragraph 122 of the Master Complaint as it pertains to defendant and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

123. Denies the allegations contained in paragraph 123 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

124. Denies the allegations contained in paragraph 124 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

125. Denies the allegations contained in paragraph 125 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

126. Denies the allegations contained in paragraph 126 of the Master Complaint as it pertains to defendant and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

127. Denies the allegations contained in paragraph 127 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

128. Denies the allegations contained in paragraph 128 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

129. Denies the allegations contained in paragraph 129 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

130. Denies the allegations contained in paragraph 130 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

131. Denies the allegations contained in paragraph 131 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

132. Denies the allegations contained in paragraph 132 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

133. Denies the allegations contained in paragraph 133 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

134. Denies the allegations contained in paragraph 134 of the Master Complaint as it pertains to defendant Martuscello and denies knowledge and information sufficient to form a belief as to the allegations pertaining to the remaining defendants.

135. Denies the allegations contained in paragraph 135 of the Master Complaint.

136. Denies the allegations contained in paragraph 136 of the Master Complaint.

137. Denies the allegations contained in paragraph 137 of the Master Complaint.

138. Denies the allegations contained in paragraph 138 of the Master Complaint.

139. Denies the allegations contained in paragraph 139 of the Master Complaint.

140. Denies the allegations contained in paragraph 140 of the Master Complaint.

141. Denies the allegations contained in paragraph 141 of the Master Complaint.

142. Denies the allegations contained in paragraph 142 of the Master Complaint.

143. Denies the allegations contained in paragraph 143 of the Master Complaint.

144. Denies the allegations contained in paragraphs 1-143 with the same force and effect as set forth hereat.

145. Denies the allegations contained in paragraph 145 of the Master Complaint.

146. Denies the allegations contained in paragraph 146 of the Master Complaint.

147. Denies the allegations contained in paragraph 147 of the Master Complaint.

148. Denies the allegations contained in paragraphs 1-147 with the same force and effect as set forth hereat.



149. Denies the allegations contained in paragraph 149 of the Master Complaint.

150. Denies the allegations contained in paragraph 150 of the Master Complaint.

151. Denies the allegations contained in paragraphs 1-151 with the same force and effect as set forth hereat.

152. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 152 of the Master Complaint.

153. Denies the allegations contained in paragraph 153 of the Master Complaint.

154. Denies the allegations contained in paragraph 154 of the Master Complaint.

155. Denies the allegations contained in paragraph 155 of the Master Complaint.

156. Denies the allegations contained in paragraph 156 of the Master Complaint.

157. Denies the allegations contained in paragraphs 1-156 with the same force and effect as set forth hereat.

158. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 158 of the Master Complaint.

159. Denies the allegations contained in paragraph 159 of the Master Complaint.

160. Denies the allegations contained in paragraph 160 of the Master Complaint.

161. Denies the allegations contained in paragraph 161 of the Master Complaint.

162. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 162 of the Master Complaint.

163. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 163 of the Master Complaint.

164. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 164 of the Master Complaint.

165. Denies knowledge and information sufficient to form a belief as to the allegations contained in paragraph 165 of the Master Complaint.

166. Denies the allegations contained in paragraph 166 of the Master Complaint.

167. Denies the allegations contained in paragraph 167 of the Master Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

1. The Plaintiffs' claims are barred by the applicable statute of limitations.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

2. The Plaintiffs' lack personal jurisdiction over defendant Martuscello.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

3. The Master Complaint fails to state a cause of action upon which relief can be granted against defendant Martuscello.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

4. Defendant Martuscello did not supervise, direct or control the plaintiffs' work.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

5. Plaintiffs' failed to join a necessary party or parties.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

6. Defendant Martuscello did not hire or retain any of the plaintiffs or any entity that employed any of the plaintiffs to perform any services at any of the locations set forth in the complaint.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

7. If the plaintiff sustained damages as set forth in the Complaint, said damages were a result in whole or in part of Plaintiffs own culpable conduct.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE**

8. The alleged acts or omissions of Martuscello were not the proximate cause of any injuries or damages incurred by the plaintiff for which Martuscello would be liable to plaintiffs.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

9. This action does not fall within one or more of the exceptions set forth in CPLR §1602.

**AS AND FOR AN TENTH AFFIRMATIVE DEFENSE**

10. If plaintiffs were caused to sustain damages at the time and place set forth in the complaint, it was due to the culpable conduct of person or persons presently unknown, but not the conduct of Martuscello.

**AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE**

11. That any award recovered by plaintiffs must be reduced by the receipt of collateral source payments.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

12. In the event that any co-defendant or other party herein settles, Martuscello shall be entitled to a set off pursuant to General Obligations Law §15-108(a).

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

13. Plaintiffs' claims are barred by the doctrine of estoppel.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

14. Plaintiffs' claims are barred by the doctrine of waiver.

**AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

15. Plaintiffs' claims are barred by the doctrine of collateral estoppel.

**AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE**

16. Plaintiffs' claims are barred by the doctrine of the doctrine of res judicata.

**AS AND FOR A SEVENTEENTH AFFIRMATIVE DEFENSE**

17. Defendant Martuscello retain any of the plaintiffs or any entity that employed the plaintiffs to perform services at any of the time period set forth in the complaint.

**AS AND FOR A EIGHTEENTH AFFIRMATIVE DEFENSE**

18. To the extent that Martuscello might be held vicariously liable for the actions or inactions taken by any federal, state or city agencies, including but not limited to the federal Occupational Safety and Health Administration ("OSHA") or Environmental Protection Agency ("EPA"), for which those agencies are immune from liability under federal and/or state statute or common law, defendant Martuscello is likewise immune

from liability for such action and/or inactions pursuant to federal and/or state statute and/or common law.

**AS AND FOR A NINETEENTH AFFIRMATIVE DEFENSE**

19. In the event defendant Martuscello failed to take any action or took any actions while performing clean up services at 108 Greenwich Street, New York, New York, such actions or inactions were at the direction and/or control, either directly or indirectly, of OSHA, EPA and any other applicable federal, state or local governmental agency and as such, defendant Martuscello is immune from liability.

**AS AND FOR A TWENTIETH AFFIRMATIVE DEFENSE**

20. In the event defendant Martuscello failed to take any action or took any actions while performing clean up services at 108 Greenwich Street, New York, New York, such actions or inactions were at the direction and/or control, either directly or indirectly, of OSHA, EPA and any other applicable federal, state or local governmental agency and as such, defendant Martuscello is immune from liability under the Robert T. Stafford Disaster Relief and Emergency Assistance Act 42 USC §5121.

**AS AND FOR A TWENTY-FIRST AFFIRMATIVE DEFENSE**

21. Defendant Martuscello did not owe any duty to the plaintiffs.

**AS AND FOR A TWENTY-SECONDAFFIRMATIVE DEFENSE**

22. Defendant Martuscello acted reasonably under the circumstances then existing and complied with all applicable statutes, regulations, codes and industry standards.

**AS AND FOR A TWENTY-THIRD AFFIRMATIVE DEFENSE**

23. To the extent it is determined that defendant Martuscello owed a duty to the plaintiffs, said duty is limited pursuant to New York's emergency doctrine.

**AS AND FOR A TWENTY-FOURTH AFFIRMATIVE DEFENSE**

24. Defendant Martuscello did not cause or create any defective condition at the premises.



**AS AND FOR A TWENTY-FIFTH AFFIRMATIVE DEFENSE**

25. Defendant Martuscello did not have any actual or constructive notice of any alleged dangerous or defective condition existing at the premises.

**AS AND FOR A TWENTY-SIXTH AFFIRMATIVE DEFENSE**

26. To the extent defendant Martuscello is deemed to have actual or constructive notice of any dangerous or defective condition, Martuscello acted reasonably under the circumstances then and there existing.

**AS AND FOR A TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

27. The conditions complained of in the Master Complaint were open and obvious hazards against which defendant Martuscello had no duty to warn.

**AS AND FOR A TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

28. In the event the plaintiffs sustained injuries as set forth in the Master Complaint, such injuries were caused by unforeseeable, intervening and/or superceding actions of third parties that were not under the direction or control of defendant Martuscello.

**AS AND FOR A TWENTY-NINTH AFFIRMATIVE DEFENSE**

29. To the extent the plaintiffs were retained or hired to remediate, eliminate or mitigate the very hazard the plaintiffs now claim caused their injuries, plaintiffs cannot recover for injuries caused by the very condition they were retained or hired to remediate, eliminate or mitigate.

**AS AND FOR A THIRTIETH AFFIRMATIVE DEFENSE**

30. Plaintiffs were not lawfully on the premises.

**AS AND FOR A THIRTY-FIRST AFFIRMATIVE DEFENSE**

31. Plaintiffs did not suffer a compensable injury.

**AS AND FOR A THIRTY-SECOND AFFIRMATIVE DEFENSE**

32. Plaintiffs failed to mitigate their damages.

**AS AND FOR A THIRTY-THIRD AFFIRMATIVE DEFENSE**

33. Plaintiffs damages have not accrued and are therefore contingent damages which are not recoverable.

**AS AND FOR A THIRTY-FOURTH AFFIRMATIVE DEFENSE**

34. Plaintiffs failed to take reasonable steps or precautions to care for their own safety.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

35. Plaintiffs assumed the risk.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

36. Plaintiffs were recalcitrant workers as they failed to use safety devices provided by the defendants and they were instructed to use.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

37. Any recovery by plaintiffs is barred, either in whole or in part, due to plaintiffs' misuse of appropriate safety devices.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

38. Any amount of damages recovered from defendant Martuscello must be reduced by all workers' compensation benefits received by plaintiffs.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

39. To the extent the plaintiffs seek recovery for medical monitoring damages, such damages may not be awarded in the absence of clinically demonstrable presence of toxins in the allegedly injured plaintiffs body.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

40. To the extent the plaintiffs seek recovery for cancer, such damages may not be awarded in the absence of clinically demonstrable presence of toxins in the allegedly injured plaintiffs body.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

41. Plaintiffs were not engaged in an activity protected under the New York Labor Law.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

42. Plaintiffs were not the class of persons that the New York Labor Law was enacted to protect.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

43. To the extent plaintiffs assert a cause of action under Labor Law §200 against defendant Martuscello, Martuscello did not supervise, direct or control the work which injured the plaintiff.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

44. To the extent plaintiffs assert a cause of action under Labor Law §240(1) against defendant Martuscello, the plaintiffs were not exposed to unique gravity related hazards under the guise of this provision.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

45. To the extent plaintiffs assert a cause of action under Labor Law §241(6) against defendant Martuscello, plaintiffs cannot sustain a cause of action as they did not and cannot allege a specific provision of the Industrial Code that was violated by Martuscello.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

46. To the extent that the plaintiffs assert causes of action against defendant Martuscello pursuant to New York State's Labor Law, such

causes of action must be dismissed because the plaintiffs were not engaged in construction, demolition or excavation work.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

47. To the extent the plaintiffs' assert a cause of action against defendant Martuscello to recover on behalf of a firefighter or police officer for injuries suffered in serving in that capacity, the "Firefighter's Rule" bars any recovery herein by the plaintiff.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

48. To the extent the plaintiffs' assert a cause of action against defendant Martuscello to recover on behalf of a firefighter or police officer for injuries suffered in serving in that capacity, defendant Martuscello did not owe any duty to such plaintiffs.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

49. To the extent the plaintiffs assert a cause of action against defendant Martuscello under General Municipal Law, such claims must be dismissed since General Municipal Law does not extend the recovery of

damages for injuries suffered during the demolition of a building or during debris removal from a collapsed or condemned building.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

50. To the extent the plaintiffs assert a cause of action against defendant Martuscello under General Municipal Law, such claims must be dismissed since no such claim is pled in the Master Complaint and defendant Martuscello does not owe plaintiffs any duty under the General Municipal Law.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

51. Plaintiffs lack standing to commence an action for wrongful death on behalf of his/her purported decedent.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

52. Plaintiffs have not met conditions precedent to the maintenance of a wrongful death cause of action.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

53. Plaintiffs have not suffered an economic loss as a result of the death of their decedent.

**AS AND FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE**

54. To the extent plaintiffs' seek punitive damages, such damages are not warranted or recoverable against defendant Martuscello.

**WHEREFORE**, Defendant MARTUSCELLO demands judgment (1) dismissing the Plaintiffs' entire action and complaint with prejudice, (2) awarding Defendant MARTUSCELLO, the costs and disbursements of this action together with their reasonable attorneys fees, and, (3) awarding such other and further relief as this Court deems just and proper.

Dated: Lake Success, New York  
January 4, 2008

Yours, etc.

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BY:   
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